

(a) For the purpose of adjusting the rate of assessment, determine and publicly announce prior to the voting period the total volume of fluid milk products marketed by all processors of fluid milk in the United States during the representative period and the portion of such volume that must be represented by those fluid milk processors voting in favor of the question included on the ballot if the referendum question is to pass.

(b)(1) Within 12 days after the deadline for registering to vote in the referendum, the referendum agent shall make available upon request a list of those fluid milk processors that properly registered. Any challenge of a processor's eligibility to vote must be received by the referendum agent within 17 days of the deadline for voter registration.

(2) If the voting eligibility of any fluid milk processor is challenged within the timeframe specified in § 1160.604(b)(1), the referendum agent shall review the challenge and make a final determination regarding the processor's eligibility to vote.

(3) Prior to the time of mailing ballots to fluid milk processors, the referendum agent shall prepare a final list of eligible voters and make such list available upon request.

(c) Verify the eligibility of all persons voting in the referendum by reviewing all ballots cast to assure that each ballot:

(1) Was mailed within the prescribed time;

(2) Contains all certifications required attesting to the eligibility of the person to vote, and that the person voting filed with the referendum agent prior to the voting period the advance registration required pursuant to § 1160.606(a)(1); and

(3) Was completed with respect to all necessary information pertinent to the identification of the person voting so that additional verification can be conducted by the referendum agent to substantiate the eligibility of each such person to vote.

(d) Conduct further verification, as necessary, to determine the eligibility of each person to vote. Such verification may be completed by re-

viewing readily available sources of information, including the following:

(1) Records of the Department;
(2) Fluid milk processors' records; and

(3) Any other reliable sources of information which may be available to the referendum agent.

(e) Further verify ballots to avoid a duplication of votes. The following criteria shall serve as a guide:

(1) Each fluid milk processor that is other than an individual shall be regarded as one person for voting purposes;

(2) No more than one vote may be cast on behalf of any one fluid milk processor; and

(3) In the event that more than one individual claim the right to vote and cast a ballot for a fluid milk processor, concurring votes of such individuals shall be treated as one vote while any conflicting votes shall thereby invalidate all ballots cast by such individuals.

[58 FR 62503, Nov. 29, 1993, as amended at 62 FR 3983, Jan. 28, 1997]

§ 1160.605 Scheduling of referendum.

A referendum shall be held:

(a) Whenever prescribed by the order;

(b) For the purpose of adjusting the rate of assessment:

(1) At the direction of the Secretary; or

(2) Upon request of the Board or upon request of any group of fluid milk processors that marketed during a representative period, as determined by the Secretary, 10 percent or more of the volume of fluid milk products marketed by all processors of fluid milk in the United States during that period; or

(c) For the purpose of suspending or terminating the order:

(1) At the direction of the Secretary; or

(2) Upon request of the Board or upon request of any group of fluid milk processors that marketed during a representative period, as determined by the Secretary, 10 percent or more of the volume of fluid milk products marketed by fluid milk processors voting in the preceding referendum.

[62 FR 3984, Jan. 28, 1997]